IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.87 OF 2005

Rita Mahesh Nathwani. ..Applicant.

V/s.

Mahesh V. Nathwani. ..Respondent.

Mr.Vasundhara Deshpande for applicant.

Mr.Shriram S. Kulkarni for Respondent.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 17, 2006.

P.C. :

1. Heard counsel for the parties.

2. Initially attempt was made to persuade the parties to amicably resolve all the differences, but it seems that they are still not in the frame of mind to discuss settlement. For the time being therefore, this court will have to confine to the issue of transfer of matrimonial proceedings instituted by the respondent before the Civil Judge, Sr. Division, Kalyan being M.P. No.236 of 2005.

3. Indeed, this matrimonial petition was filed by the respondent in earlier point of time. Within 3 days thereafter, the petitioner filed another

matrimonial petition in the court of 7th Court, Family Court at Bandra at Mumbai being M.J.Petition No.A-1155 of 2005 seeking dissolution of marriage on the ground of cruelty. As the issues involved in both the petitions are common and overlapping, in the interest of parties and to obviate any contrary findings of two courts on the same issue, the appropriate course is to accede to the request of the petitioner.

4. During the course of argument suggestion was made by the counsel for the respondent that petitioner is resident of Bhayandar, whereas the matrimonial petition filed by her is in the Family court at Bandra. She has to come all the way from Bhayandar to attend court proceedings at Bandra in which case the appropriate course will be to transfer both the matrimonial proceedings to the court at Thane, which will be the central place for both the parties. However, counsel for the petitioner submits that there is some advantage in having proceedings before the Family Court at Bandra. Firstly, proceedings before the Family Court, Bandra are disposed of expeditiously. Secondly, there is facility of counselling in the Family Court at Bandra, which is lacking in court at Thane. In the

circumstances, even if Thane court will be central place for both the parties, in the peculiar situation, in my opinion, in the interest of justice, petition as filed by the petitioner for transfer of pending matrimonial proceedings at the court of Kalyan to be heard with M.J.petition No. A-115 of 2005 will have to be granted.

5. Accordingly, petition succeeds in terms of prayer clause (a) on the above terms.